

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DARNELL MOON,)	
)	
Plaintiff,)	
)	
v.)	No. 1:15-CV-167 RLW
)	
JOHN JORDAN, et al.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion to Reset Deadlines (ECF No. 31) and Plaintiff's Motion for Leave to File an Amended Complaint Pursuant to Rule 15(a)(2) (ECF No. 33). This matter is fully briefed and ready for disposition.

I. MOTION TO RESET DEADLINES

In his Motion to Reset Deadlines, Plaintiff claims that he was unaware of what was transpiring in his case for a variety of reasons. Plaintiff seeks to amend the scheduling order. Defendants did not file an opposition to Plaintiff's Motion. The Court assumes that the parties agreed to extend Plaintiff's deadlines. The Court extends the deadlines in this case as follows:

- Initial disclosures shall be filed no later than **January 18, 2017**;
- Motions for Joinder of Additional Parties shall be filed no later than **February 17, 2017**;
- The Discovery deadline shall be no later than **May 1, 2017**;
- Motions for Summary Judgment shall be filed no later than **July 1, 2017**;
- Oppositions to Motions for Summary Judgment shall be filed no later than **August 1, 2017**;
- Reply briefs shall be filed no later than **August 15, 2017**.

II. MOTION TO AMEND COMPLAINT

A. Legal Standard

Federal Rule of Civil Procedure 15(a)(2) provides “a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.” “Though the district court should freely give leave [to amend] when justice so requires, Fed.R.Civ.P. 15(a)(2), plaintiffs do not enjoy ‘an absolute or automatic right to amend’ a deficient ... Complaint.” *U.S. ex rel. Roop v. Hypoguard USA, Inc.*, 559 F.3d 818, 822 (8th Cir. 2009) (quoting *United States ex rel. Lee v. Fairview Health Sys.*, 413 F.3d 748, 749 (8th Cir. 2005)). “A district court may appropriately deny leave to amend ‘where there are compelling reasons “such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment.”’” *Moses.com Sec., Inc. v. Comprehensive Software Sys., Inc.*, 406 F.3d 1052, 1065 (8th Cir. 2005) (quoting *Hammer v. City of Osage Beach*, 318 F.3d 832, 844 (8th Cir.2003)).

B. Discussion

On June 6, 2017, Plaintiff filed a motion for leave to file an Amended Complaint pursuant to Fed. R. Civ. P. 15(a)(2). (ECF No. 33). Plaintiff attached a proposed Amended Complaint. (ECF No. 33-1). Plaintiff stated that he was unable to file his Amended Complaint earlier because he was incarcerated at the Federal Correctional Institution-Terre Haute, Indiana and the staff interfered with his mail service.

As of June 6, 2017, the deadline for filing a motion to add additional parties or amendments had past under the prior Case Management Order. Defendants claim that Plaintiff has not shown good cause to amend the complaint. Defendants further contend that Plaintiff's

Amended Complaint restates the same allegations as his original Complaint. Finally, Defendants note that Plaintiff filed the Amended Complaint only after Defendants filed their Motion for Summary Judgment and Plaintiff has not filed a response to the Motion for Summary Judgment.

Because the Court has extended the other deadlines in this case, the Court also extends the deadline for amending pleadings and holds that Plaintiff's Amended Complaint is timely. The Court also will deny Defendants' Motion for Summary Judgment as moot because it was directed at Plaintiff's previous Complaint.


Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion to Reset Deadlines (ECF No. 31) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File an Amended Complaint Pursuant to Rule 15(a)(2) (ECF No. 33) is **GRANTED**.

IT IS FINALLY ORDERED that Defendants' Motion for Summary Judgment (ECF No. 28) is **DENIED** as moot because it was directed at the previous Complaint. Defendants can re-file the Motion for Summary Judgment in accordance with the new deadlines.

Dated this 9th day of January, 2017.


RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE